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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/725,907

12/02/2003

Stephen Dintino

3943

39417 7590 07/27/2007  
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EXAMINER
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NGUYEN, CAMTU TRAN

ART UNIT	PAPER NUMBER
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3772

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/725,907	<b>Applicant(s)</b> DINTINO, STEPHEN	
	<b>Examiner</b> Camtu T. Nguyen	<b>Art Unit</b> 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☒ Claim(s) 7 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is in response to applicant's amendment filed on April 23, 2007.

Claim 1 has been amended. Claims 2-17 are newly added claims.

### ***Drawings***

The drawing submitted on June 21, 2005 has been reviewed but is objected to because it is drawn not isometrically, it is difficult to visualize how arms (3, 4, 6, 7) situate relative to the main pole shaft and everything extend outwardly therefrom such as arms (1, 2, 8-10). In fact, when compared the drawings of June 21, 2005 against the original drawing of June 4, 2004, it appears that arms (3, 4, 6) are inconsistent with each other. The drawing of April 23, 2007 has helped in the sense that it illustrates arms (1, 2) are on the one plane and arms (8-10) are on another plane, both planes are parallel to each other.

The drawing is objected to because it does illustrate the device is in its collapsible state. If the reinforced structure of the device is capable of being folded, or detachable or even re-attachable, the drawing does not show this capability in such a way that one of ordinary skilled in the art would have easily understood.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the cotter pin of the solid core joint located at the center of reinforced one must be shown or the feature(s) canceled from the claim(s). Likewise, the cotter pins of solid core joints and plates located at upper control arms

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must be shown or the feature(s) canceled from the claim(s). Likewise, the cotter pins of solid core joints at perpendicular vertical connector shaft must be shown or the feature(s) canceled from the claim(s). Likewise, cotter pins of solid core joints and plates located at three lower control arms must be shown or the feature(s) canceled from the claim(s). Likewise, the cotter pins of solid core joint located at the vertical connector shaft must be shown or the feature(s) canceled from the claim(s)

No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

Claims 7 and 11 are objected to because the term “a rubber elastic band” appears to be confusion. Did applicant intend for it to correspond to the elastic rubber band straps recited in claim 1 or is this term introducing a new rubber elastic band?

Claims 7, 9, and 10 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative form only. See MPEP § 608.01(n).

Claim 11 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative form only and cannot depend from any other multiple dependent claim. See MPEP § 608.01(n).

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 6, 12, are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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In claim 1, with regards to the reinforced one having a length of seventy-four inches, this newly recited length is new matter since applicant submitted in the specification on page 2 lines 15-19, as originally disclosed, the reinforced one has an overall length of ninety-six inches.

In claim 1, with regards to pole shaft and the lower control arms being connected to and supported by a forty-five degree angled shaft is not supported by the specification, as originally disclosed.

In claim 6, the arms are thirty-four inches apart at their ends. This new and different from the drawings as originally disclosed. In the figure, the arms are apart at one end and joined at the opposite end.

In claim 12, the forty-five degree angled diagonal support shaft presents new matter which was not supported by the specification, as originally disclosed. Furthermore, the cotter pin and the solid core joint detachably connecting the connector shaft and the pole shaft is not supported by the specification, as originally disclosed.

Claims 14-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, applicant recites "certain specific situations and incidents" failed to point out and distinctly claim the invention.

The following is a quotation of the<sup>a</sup>second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 recites the limitation "the one person user horizontal handles" in line 1.

Claim 3 recites the limitation "the one person user vertical handles" in line 1

Claim 4 recites the limitation "the two person user horizontal handles" in line 1.

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Claim 5 recites the limitation "the two person user vertical shoulder support and handle" in line 1.

Claims 7 & 10 recite the limitation "a rubber elastic band" in line 1.

Claim 9 recites the limitation "the two outer arms of the lower control" in line 1.

Claim 10 recites the limitation "the center arms of the lower control" in line 1.

Claim 13 recites the limitation "its length" in line 1, which structure on the tool is this length referring to?

There is insufficient antecedent basis for these limitations in the claims.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted structural cooperative relationships are: where and how the horizontal upper arms are connected to the pole shaft.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The claim rejected under 35 U.S.C. 102(b) as being anticipated by Wilmoth, III (U.S. Patent No. 5,118,108). Wilmoth, III discloses a baton comprising a club portion (11), a handle portion (12), a hand guard (13), a trapping tip (14), a side guard (15). The Wilmoth, III device is

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capable of providing to the Police, Law Enforcement, Corrections, Medical and Public Safety personnel a tool to safely control and restrain a physically aggressive person, and to minimize the use of force. With regards to the "Giraffe", as recited, this limitation has been considered but however had been given little weight into the broadly interpretation of the claim.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.




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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Camtu Nguyen  
June 28, 2007

  
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7/13/07